

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
(Austin Division)

FILED

FEB 22 2022

CLERK, U.S. DISTRICT CLERK
WESTERN DISTRICT OF TEXAS
BY DNC DEPUTY

DANIEL BOSTIC, an individual,)
Plaintiff,)
v.)
THE DAILY DOT, LLC, a Texas)
limited liability company,)
CLARION MEDIA GROUP, LLC,)
a Delaware limited liability company,)
and)
ZACHARY PETRIZZO,)
Defendants.)

Case No.: 1:22 CV 0158 RP

COMPLAINT

JURY TRIAL DEMANDED

Daniel Bostic's name and reputation have been forever tainted by the knowing and malicious lies published by The Daily Dot, calling Mr. Bostic a "Jan. 6 Capital Riot organizer," and of "coordinat[ing] the Jan. 6 Capital insurrection." Wherefore, Mr. Bostic brings this action for defamation against Zachary Petrizzo, The Daily Dot, LLC, and Clarion Media Group, LLC and alleges as follows:

Nature of Action

1. Mr. Bostic brings this action to hold Petrizzo, The Daily Dot, and Clarion Media accountable for defaming him by falsely asserting what they knew to be false: that Mr. Bostic organized and coordinated the riots and attacks that occurred at our nation's Capital Building on January 6, 2021.

2. This lie has forever tainted Mr. Bostic's name and reputation, costing him family, friends, business opportunities, and his mental wellbeing. Mr. Bostic has endured over a year of constant harassment, the doxing and boycotting of his business, and intense depression.

3. Specifically, on February 23, 2021, The Daily Dot, a wholly owned subsidiary of Clarion Media, published a purported "news" article, written by Petrizzo, that falsely stated as a matter of fact to millions of people that Mr. Bostic was a "Jan. 6 Capital riot organizer" and that he helped to "coordinate the Jan. 6 Capital insurrection." A copy of this defamatory article (the "Article") is attached as **Exhibit 1**.

4. The January 6 riot, which The Daily Dot falsely asserted was organized and coordinated by Mr. Bostic, involved thousands of people illegally entering the U.S. Capitol Building, disrupting the certification of the 2020 presidential election, and causing significant property damage. There were many violent altercations between instigators and Capital Police. Hundreds of the protesters have been arrested and charged with various crimes, including assault. At least one protester was killed by Capital Police. The January 6 protests have been called an "insurrection"—including by Petrizzo in the Article—and have been widely condemned as posing an existential threat to democracy.¹ Vice President Harris even

¹ See, e.g., *U.S. v. Cua*, 2021 WL 918255, No. 21-107 (RDM), *3 ("This was a singular and chilling event in U.S. history, raising legitimate concern about the security—not only of the Capital building—but of our democracy itself.")

compared the January 6 protests with Pearl Harbor and the terrorist attacks of September 11 in their national significance.²

5. When Petrizzo wrote and the Daily Dot published the Article, they had actual knowledge or recklessly disregarded the fact that Mr. Bostic was not connected in any way with the January 6 riots, much less that he was an organizer or coordinator of riots and insurrection. They knew or disregarded that Mr. Bostic was not a speaker at the Capitol on January 6; however, they attempted to portray him as such by using a photograph of Mr. Bostic speaking in front of a crowd at a different event from November 2020, and used it as the header photo to the Article. They knew or disregarded that Mr. Bostic did not climb the Capital building steps with Ali Alexander and Alex Jones on January 6, as confirmed by video and photographic evidence; however, they repeated the lie that he did so to falsely portray Mr. Bostic as a leader and coordinator of the protesters.

6. Petrizzo, however, is a NeverTrump partisan who harbors personal animosity toward Mr. Bostic and his political views. The animus runs so deep that Petrizzo made personal phone calls to the organizers of CPAC 2021 to spread the lies from his article and successfully got Mr. Bostic temporarily banned from the event, where he was slated to promote a documentary film he helped produce. At a private event in June 2021, after being asked to leave, Petrizzo hid and attempted to film Mr.

² Jake Lahut, “Kamala Harris Compares January 6 to Pearl Harbor and 9/11 in anniversary speech at the Capitol,” BUSINESS INSIDER (Jan. 6, 2022), <https://www.businessinsider.com/kamala-harris-pearl-habor-911-comparison-jan-6-speech-2022-1>.

Bostic entering a restroom. And on July 2, 2021, Petrizzo once again made the false claim that Mr. Bostic was a “Jan. 6 ‘Stop the Steal’ Organizer” in an article he wrote for Salon.com. *See Exhibit 2.*

7. Because the media narrative surrounding January 6 portrayed any participants or even supporters of the protests as being insurrectionists, Petrizzo, The Daily Dot, and Clarion Media took the opportunity to smear Mr. Bostic with the false statements that he organized and coordinated the Jan. 6 riots and insurrection. These would be serious crimes. Defendants did this with the intention of doxing Mr. Bostic, destroying his reputation, driving him out of business and out of polite society, and potentially triggering a criminal investigation.

Parties

8. Daniel Bostic (“Mr. Bostic”) is an individual who resides in and is a citizen of the State of South Carolina.

9. The Daily Dot, LLC (“The Daily Dot”) is a Texas limited liability company, with its principal office located at 3112 Windsor Road, Suite A391, Austin, Texas 78703.

10. Clarion Media Group, LLC (“Clarion Media”) is a Delaware limited liability company, with its principal office located at 3112 Windsor Road, Suite A391, Austin, Texas 78703.

11. Zachary Petrizzo (“Petrizzo”) is an individual who resides in the Commonwealth of Virginia.

Jurisdiction and Venue

12. This Court has jurisdiction over this cause of action pursuant to 28 U.S.C. § 1332 as there is complete diversity of citizenship and the amount in controversy exceeds \$75,000.

13. This Court has personal jurisdiction over The Daily Dot because it is a Texas limited liability company, and over Clarion Media and Petrizzo pursuant to Texas's long-arm statute, Civil Practice and Remedies § 17.042, because publication occurred in Austin, Texas.

14. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 because The Daily Dot resides in this judicial district and a substantial portion of the events giving rise to the claims asserted in this action—namely, publication of the defamatory statements—occurred in this judicial district.

Factual Background

15. Mr. Bostic is a producer and documentary filmmaker who was once an aspiring actor and model. His first exposure to politics was in 2013 when his father unsuccessfully challenged Mark Sanford in a South Carolina Republican primary for the U.S. House of Representatives. Mr. Bostic served as a congressional staffer to then-Representative Tim Scott. In 2018, Mr. Bostic helped found an organization called Stop the Steal, which was created to call attention to and protest what it believed to be fraudulent vote recounts going on in Broward County, Florida.

16. Prior to publication of the Article, Mr. Bostic has not been in the public eye, except that he is active on Twitter with a relatively large number of users that

follow his account (approximately 56,100 as of this filing). On Twitter, he regularly expresses his opinions on politics, which has included praise (and criticism) of President Trump and support for election integrity.

17. Mr. Bostic is an entrepreneur and started his own business as a consultant. His biggest job, however, has been as a producer for the 2020 documentary, The Plot Against the President, which examined the Russia Collusion narrative that was used against President Trump in the 2016 election and during his presidency.

18. After Mr. Bostic's initial involvement with Stop the Steal in 2018, he maintained contact with the organizers but his role in the organization was minimal. Mr. Bostic occasionally volunteered to help them with political rallies and on one occasion, November 14, 2020, Mr. Bostic briefly addressed rally attendees. Mr. Bostic, however, did not help Stop the Steal organize any events scheduled for January 6, 2021, in Washington, D.C. In fact, Stop the Steal did not even organize the January 6 event at which President Trump gave his address. That rally was organized by Women for America First, of which Mr. Bostic is not a member. Mr. Bostic's only involvement with Women for America First is that he is personally friends with its leadership, and he allowed them to use his credit card to help them rent the jumbotron for President Trump's speech.

19. Mr. Bostic's role on January 6, 2021, was as a spectator. He had a front-row seat at President Trump's speech at the Ellipse.

20. Mr. Bostic had no idea that protestors would be illegally entering the Capital building over a mile-and-a-half away, much less that there would be violent confrontations between agitators and law enforcement.

21. After President Trump's speech, Mr. Bostic and the rest of the group he was with walked from their spot at the Ellipse to a designated media area at the rear of the Capitol Lawn. Mr. Bostic live-streamed the walk toward this second location on Twitter via Periscope, during which chants of "Stop the Steal" were audible. He captioned one of the videos "Storming the Capital #StopTheSteal" to document what was occurring. Mr. Bostic's video was from so far away from the Capital building, it is not only obvious that he is not "storming" anything, but also that he had no vantage point to see that anyone had illegally entered the Capital building.

22. Once he arrived at the second location on the Capitol Lawn, Mr. Bostic was able to see that the crowd was becoming violent as tear gas was pumped in and agitators entered from behind. As a long-time pacifist, Mr. Bostic was deeply saddened by what he saw, so he left and went directly back to his hotel, miles away.

23. After leaving, Mr. Bostic learned from news coverage about rioters entering and vandalizing the Capital building. He did not want to seem like he endorsed or encouraged such violent behavior, so he deleted his earlier stream from Periscope. What he did not realize was that the media would target him for doxing and use an altered version of his prior Tweet, with no video to accompany and contextualize it, to accuse Mr. Bostic of participating in and coordinating the violent mobs.

24. Mr. Bostic did not endorse the lawlessness displayed on January 6 and went so far as to publicly denounce it when he learned about it.

25. The Daily Dot is an online-only publication, founded in 2011 in Austin, Texas, that purports to report on the news. It claims an audience of 23 million global unique visits.

26. Clarion Media is the parent company to The Daily Dot. It is an online media conglomeration, that includes The Daily Dot, Nautilus, Phire, and Memetic. It claims an audience of 25.1 million monthly unique viewers, 39.6 million social media followers, and 1.7 million email subscribers.

27. Petrizzo is a self-described investigative reporter, who wrote for The Daily Dot for over a year, and has since written for Mediaite, Salon.com, and The Daily Beast.

28. On February 23, 2021, The Daily Dot, in Austin, Texas, published the Article, stating falsely and with actual malice that Mr. Bostic was a “Jan. 6 Capital riot organizer” and that he helped to “coordinate the Jan. 6 Capital insurrection.” Petrizzo and The Daily Dot had actual knowledge that these statements were false or were reckless in their disregard for the truth and for the rights of Mr. Bostic. They made up these lies, inventing them out of whole cloth with no basis whatsoever, with the intent of destroying Mr. Bostic’s reputation and forever associating him with the lawlessness and violence of January 6.

29. Petrizzo and The Daily Dot chose an image of Mr. Bostic addressing a rally from November 12, 2020 as the header photo to accompany the Article. They

chose this photo with actual knowledge that it was not from January 6, 2021. The image was a screen capture, lifted directly from C-SPAN coverage of the November 12, 2020 rally, and was labeled as such on C-SPAN's website.³ Petrizzo and The Daily Dot chose the image with the malicious intent of misleading their readers into believing that Mr. Bostic had addressed the crowd on January 6, and had organized and coordinated riots and insurrection.

30. Petrizzo and The Daily Dot had actual knowledge that Women for America First hosted President Trump's rally on January 6, 2021. Indeed, the Women for America First logo was clearly displayed on the podium where President Trump spoke and on large banners on either side of the stage. With actual malice and reckless disregard for the truth and for the rights of Mr. Bostic, the Article asserted that Mr. Bostic organized and coordinated riots and insurrection simply because Mr. Bostic had been involved in another organization called Stop the Steal.

31. The Article repeated the false reporting of Salon.com that Mr. Bostic can be seen on video climbing the steps of the Capital building on January 6 with Ali Alexander and Alex Jones. They repeated this lie with actual malice, knowing of its falsity or with reckless disregard for its falsity, since Petrizzo either viewed the video himself and knew it to be false, or he did not even bother to view the video he was reporting on to millions of readers. Mr. Bostic has publicly called upon Petrizzo and the author of the Salon article to produce the video that they claim to have. No such

³ See "Rally for President Trump in Washington, D.C." C-SPAN, at 1:16:22 (Nov. 14, 2020), <https://www.c-span.org/video/?478128-1/rally-president-trump-washington-dc>.

video or photographic evidence has ever been produced because none exists. Mr. Bostic did not go within several hundred feet of the Capital building steps on January 6, 2021.

32. Petrizzo's malice toward Mr. Bostic is further displayed in the Article when Petrizzo calls him a grifter without offering a basis or justification.

33. Petrizzo further displayed his malice toward Bostic by attempting to destroy Mr. Bostic financially. In late February 2021, Petrizzo personally contacted organizers of CPAC 2021, one of the largest Conservative conventions in the country, and attempted to get Mr. Bostic banned from the event. Mr. Bostic had been slated to promote *The Plot Against the President* at CPAC, which directly implicated his career and income.

34. Petrizzo's malice went so far that he purchased a ticket for a June 30, 2021, private screening of *The Plot Against the President*, where he knew that Mr. Bostic would be in attendance to promote the film. Even after being recognized and asked to leave, Petrizzo continued to stalk Mr. Bostic and even filmed Mr. Bostic entering a restroom.

35. Petrizzo then repeated the lie that Mr. Bostic was a "Jan. 6 'Stop the Steal' organizer" in a July 2, 2021 article he wrote for *Salon*. Petrizzo made this statement, once again, with actual malice, knowing it was false and with reckless disregard for Mr. Bostic's rights.

36. The lie that Mr. Bostic organized violent riots and insurrection on January 6, 2021, has been spread to every one of his friends, acquaintances,

professional connections, and family members. This lie will follow him for the rest of his life. Mr. Bostic has been harassed constantly for the past year. His family members have been harassed. His small business was doxed for boycott and destruction. Mr. Bostic's name has become toxic. He was disinvited and cancelled from large events where he would have had the chance to promote his film—including during the most crucial days of CPAC 2021—and business opportunities have disappeared. Long-time friends have refused to have anything to do with him.

37. As a result of this lie, Mr. Bostic went into a deep depression, questioning the goodness of his fellow citizens, of God, and of his country. He has undergone extensive therapy and psychiatric treatment, and has relied on prayer and his few remaining friends and family to help pick up the pieces of his shattered life. The damages suffered by Mr. Bostic are vast and demonstrable.

Cause of Action
(Defamation and Defamation *Per Se*)

38. Mr. Bostic re-alleges and incorporates paragraphs 1 through 37.

39. Clarion Media, The Daily Dot, and Petrizzo published or caused to be published false and defamatory statements in the Article, which did and had the tendency to expose Mr. Bostic to hatred, contempt, ridicule and/or disgrace.

40. The defamatory statements in the Article are of and concerning Mr. Bostic and reasonably understood to be about Mr. Bostic.

41. The defamatory statements in the Article are false.

42. Clarion Media, The Daily Dot, and Petrizzo published the defamatory statements in the Article knowing that they were false or with reckless disregard for the truth of the statements.

43. The defamatory statements in the Article constitute defamation *per se* because they tended to injure Mr. Bostic in his trade, business, or profession, and directly accused Mr. Bostic of committing a serious crime, including the organization and coordination of riots and insurrection against the U.S. Government.

44. The defamatory statements in the Article have directly and proximately caused Mr. Bostic to suffer significant damages, including damage to his reputation, humiliation, embarrassment, and mental anguish, all of which are ongoing in nature and will be suffered in the future. These damages were foreseeable to Petrizzo, The Daily Dot, and Clarion Media.

45. Clarion Media, The Daily Dot, and Petrizzo published the defamatory Article knowingly, intentionally, willfully, wantonly, and maliciously, with intent to harm Mr. Bostic, or in blatant disregard for the substantial likelihood of causing him harm, thereby entitling Mr. Bostic to an award of punitive damages.

46. As a direct and proximate result of the misconduct of Clarion Media, The Daily Dot, and Petrizzo, Mr. Bostic is entitled to compensatory, special, and punitive damages in an amount to be proven at trial in excess of fifteen million dollars (\$15,000,000).

Prayer for Relief

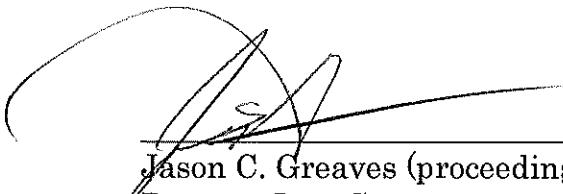
WHEREFORE, Plaintiff, Daniel Bostic, demands judgment against Defendants, Clarion Media Group, LLC, The Daily Dot, LLC, and Zachary Petrizzo, as follows:

- a. An award of compensatory, special, and punitive damages of fifteen million dollars (\$15,000,000)
- b. Injunctive relief prohibiting the publication or republication of the defamatory statements in the Article;
- c. An award of Plaintiff's costs associated with this action, including but not limited to his reasonable attorneys' fees and expenses; and
- d. Such other and further relief as the Court deems just and appropriate to protect Plaintiff's rights and interests.

Demand for Jury Trial

Plaintiff demands a trial by jury on all issues so triable.

Dated: February 21, 2022.



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